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W.P.No.7117 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.7117 of 2024
and W.M.P.Nos.7817 & 7820 of 2024

M/s.Vimal Traders,
Rep. by its authorised signatory,
#36/108, Lingappa Chetty Street,
Coimbatore, Tamil Nadu 641 001.

... Petitioner

-vs-

The Assistant Commissioner (State Tax),
R.G.Street, Coimbatore I,
Coimbatore, Tamil Nadu.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records of the Impugned order in Ref. No. ZD3309232592544 dated 30.09.2023 u/s 73 of the CGST / TNGST Act, 2017 for the assessment period 2018-2019 uploaded along with the summary of the order in DRC-07 from the files of the respondent herein, quash the same.



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WEB COPY For Petitioner : Ms.Aparna Nandakumar

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

ORDER

An assessment order dated 30.09.2023 is challenged in this writ petition primarily on the ground that the petitioner's reply and documents annexed thereto were not taken into consideration. The petitioner is a registered person under applicable GST enactments. During the assessment period 2018-2019, the petitioner had issued six invoices. While uploading the e-way bills pertaining to above mentioned supplies, the petitioner asserts that an error was committed by entering the same invoice number in multiple e-way bills. In relation thereto, a show cause notice was issued to the petitioner on 10.05.2023 and such show cause notice was replied to on 28.08.2023 by explaining the mistake committed and attaching bill copies. Eventually, the impugned order dated 30.09.2023 was issued.



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2. Learned counsel for the petitioner referred to the reply dated 28.08.2023 and pointed out that the inadvertent error was explained by enclosing the relevant bill copies. By turning to the impugned order, learned counsel points out that the petitioner's reply was not discussed therein and no reasons were set out for rejecting the said reply. Therefore, it is submitted that the petitioner should be provided another opportunity to persuade the assessing officer. It is further submitted that there was no suppression of sales.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that the petitioner had submitted bills, which did not contain the GST registration number. He further submits that the dispute relates to questions of fact and, therefore, should be addressed in appellate proceedings.



4. From the petitioner's reply dated 28.08.2023, it appears that the petitioner conceded that an inadvertent error was made by including the same invoice number under multiple e-way bills. The petitioner also attached the relevant bill copies with such reply. The findings recorded in the impugned order, in the operative portion thereof, are as under:

"The taxpayer generated two E way bills for the same invoice hence the taxpayer suppressed the turnover in GSTR3B hence an intimation notice DRC-01A has been issued electronically on 13.07.2022. The taxpayer would have received the notice in SMS and through mail. But the taxpayer did not produce any reply. DRC-01 has been electronically on 10.05.2023. The taxpayer would have received the notice in SMS and through mail. The taxpayer not replied. Personal hearing opportunities were offered to the taxpayer for filing their reply along with supportive documents on 23.08.2023 at 11:15 AM, and 25.09.2023 at 11:45 AM through online Goods and Service tax common portal. The taxpayer would have received the notice in SMS and through mail. But the taxpayer have not appeared before the proper officer and failed to utilize the opportunity and not filed any reply to the Show cause notice issued. The taxpayer have not paid the penalty. The taxpayer filed reply for the second personal hearing through on line without documentary evidence the taxpayer reply not



accepted. Hence, the above proposal is confirmed and orders passed under section 74 of TNGST / CGST Acts 2017 as below;"

5. The above extract discloses that the reply of the petitioner was noticed, but the reasons for rejecting such reply and, in particular, the documents annexed thereto, do not find place in the impugned order. For such reason, the impugned order calls for interference.

6. Therefore, the impugned order dated 30.09.2023 is quashed and the matter is remanded to the assessing officer for re-consideration. The petitioner is permitted to submit a reply to the show cause notice by enclosing all relevant documents within a maximum period of *fifteen days* from the date of receipt of a copy of this order. Upon receipt thereof, the assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh assessment order within *two months* from the date of receipt of the petitioner's reply.



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WEB COPY 7. W.P.No.7117 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.No.7969 of 2024 is closed.

20.03.2024

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

The Assistant Commissioner (State Tax),
R.G.Street, Coimbatore I,
Coimbatore, Tamil Nadu.



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SENTHILKUMAR RAMAMOORTHY,J

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